

DOCKET NO. D-1999-062 CP-2

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**Easton Suburban Water Authority – City of Easton
Surface Water Withdrawal
City of Easton, Northampton County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by Gannett Fleming, Inc. on behalf of Easton Suburban Water Authority (ESWA) to the Delaware River Basin Commission (DRBC or Commission) on March 4, 2016 for renewal of an allocation of surface water and review of a surface water withdrawal project (Application). The surface water withdrawal project was approved by the Pennsylvania Department of Environmental Protection (PADEP) on February 20, 2007 (Permit No. WA48-179B) and January 13, 2011 (Permit No.3480050).

The Application was reviewed for continued inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on August 10, 2016.

A. DESCRIPTION

1. **Purpose.** The purpose of this project is to renew the approval of an existing supply of surface water to the docket holder's distribution system and to approve a decrease in withdrawal allocation from 13.0 million gallons per day (mgd) (403.0 million gallons per month (mgm)) to 10.42 mgd (323 mgm) from an existing intake on the Delaware River.

2. **Location.** The project's existing intake is located in the Delaware River Watershed in the City of Easton, Northampton County, Pennsylvania. The Delaware River near the project site is designated by the PADEP as Warm Water Fishes (WWF) and Migratory Fishes (MF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The docket holder's distribution system supplies water to the City of Easton; Lower Nazareth Township, and Wilson, West Easton and Glendon Boroughs. Additionally, the docket holder serves water to portions of Williams, Bethlehem, Forks and

Palmer Townships all which are in Northampton County, Pennsylvania. The service area is outlined on a map entitled “Location and Service Area Map” submitted with the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. Physical features.

a. Design criteria. The ESWA system currently serves an estimated population of 93,400 through 29,453 domestic service connections and an additional 1,932 commercial connections, 125 industrial and 4 other connections with an average and maximum water demand of 7.087 mgd and 8.520 mgd, respectively. The docket holder projects an average and maximum water demand of 8.392 mgd and 10.420 mgd, respectively, by the year 2026. The allocation of 10.42 mgd (323 mgm) should be sufficient to meet the future demands of the ESWA.

The ESWA’s water treatment plant is located along the Delaware River above the confluence with the Lehigh River in the City of Easton. The water treatment plant currently has a capacity of 16.0 mgd.

b. Facilities. The docket holder’s existing surface water intake has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (GPM)	7Q10 FLOW AT INTAKE (MGD)	YEAR CONSTRUCTED
Delaware River 774	Delaware River	11,111	646	1932

All water service connections are metered.

The surface water intake is metered.

Prior to entering the distribution system, the water is treated with aluminum sulfate, sodium hypochlorite, sodium permanganate, caustic soda, fluoride and an orthophosphate corrosion inhibitor.

The project water treatment plant is partially in the 100-year floodplain; the plant is flood proofed above the 100-year flood elevation.

The ESWA water distribution system is presently interconnected with the following:

WATER COMPANY	INTERCONNECTION CAPACITY (MGD)	STATUS
City of Bethlehem – Hecktown Road	0.500	Emergency
City of Bethlehem – Green Pond Road	0.500	Emergency
PAWC – Nazareth District	0.250	Emergency
PAWC - Palmer	0.250	Emergency

PAWC – Pennsylvania American Water Company

c. **Other.** Wastewater from the ESWA service area is conveyed to three sewage treatment facilities listed below:

Wastewater is conveyed to the Easton Area Joint Sewer Authority sewage treatment facility most recently approved by DRBC Docket No. D-1987-010 CP-1 on May 27, 1987. The docket holder has submitted a docket renewal application and it is currently pending approval. The PADEP issued its most recent NPDES Permit No. PA0027235 on April 11, 2012 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

Wastewater is conveyed to the City of Bethlehem sewage treatment facility most recently approved by DRBC Docket No. D-1971-078 CP-3 on December 5, 2012. The PADEP issued its most recent NPDES Permit No. PA0026042 on November 10, 2008 for this treatment facility. A permit renewal application was submitted on May 31, 2013 and it is currently pending approval. The treatment facility has adequate capacity to receive wastewater from the proposed project.

Wastewater is conveyed to the Nazareth Borough Municipal Authority sewage treatment facility most recently approved by DRBC Docket No. D-2002-038 CP-2 on March 3, 2010. The docket holder has submitted a docket renewal application and it is currently pending approval. The state agency issued its most recent NPDES Permit No. PA0041742 on March 10, 2014 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

d. **Cost.** There is no associated cost with this project.

e. **Relationship to the Comprehensive Plan.** The project was previously included in the Comprehensive Plan by the Commission in Docket Nos. D-1968-031 CP, D-1971-063 CP and D-1999-062 CP, which were approved on October 22, 1968, November 30, 1977 and February 28, 2007, respectively. Issuance of this docket will continue the public water supply distribution system in the Comprehensive Plan.

B. FINDINGS

Special Protection Waters

In 1992, the DRBC adopted Special Protection Waters requirements, as part of the DRBC *Water Quality Regulations* (WQR), designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap were classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area.

On July 16, 2008, the DRBC approved amendments to its *Water Quality Regulations* that provide increased protection for waters that the Commission classifies as Special Protection Waters. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for Special Protection Waters designation and clarity on definitions and terms were updated for the entire program.

Article 3.10.3A.2.e.1). and 2). of the *Water Quality Regulations, Administrative Manual - Part III*, states that projects subject to review under Section 3.8 of the *Compact* that are located in the drainage area of Special Protection Waters must submit for approval a Non-Point Source Pollution Control Plan that controls the new or increased non-point source loads generated within the portion of the docket holder's service area which is also located within the drainage area of Special Protection Waters. The intake providing water supply to ESWA are located within in the drainage area to the Special Protection Waters. Since this project does not entail additional construction and expansion of facilities/service areas (and there are not any new or increased non-point source loads associated with this approval), the non-point source pollution control plan requirement is not applicable at this time. Accordingly, Special Condition C.II.u has been included in the Decision section of this docket.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

Water Audits for Public Water Supply Systems Serving Greater than 100,000 gpd

Section 2.1.8 of the Water Code states that it is the policy of the Commission to establish a standardized water audit methodology for owners of water supply systems serving the public to ensure accountability in the management of water resources. Voluntary Water Audits were encouraged for public water supply systems through December 31, 2011 (Section 2.1.8.B.). Effective January 1, 2012, the owners of each public water supply system are required to

implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance (Section 2.1.8.C). Water audits shall be submitted annually to the Commission by March 31. The ESWA submitted their most recent Water Audit on March 31, 2016.

The DRBC estimates that the project withdrawals, used for the purpose of public water supply, result in a consumptive use of 10 percent of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

Surface Water Charges

DRBC Entitlement No. 113 entitles ESWA to withdrawal 234.2 mgm (36.48 mgm consumptive use and 206.72 mgm non-consumptive use) from the Delaware River without surface water charges. The docket holder shall pay for surface water use in excess of 234.2 mgm (36.48 mgm consumptive use and 206.72 mgm non-consumptive use) from the water diversion in accordance with the provisions of Resolution No. 74-6, as amended as described in Condition C.II.e. in the DECISION section.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

C. DECISION

I. Effective on the approval date for Docket No. D-1999-062 CP-2 below:

a. The projects described in Docket No. D-1999-062 CP are removed from the Comprehensive Plan to the extent that they are not included in Docket No. D-1999-062 CP-2 ; and

b. Docket No. D-1999-062 CP is terminated and replaced by Docket No. D-1999-062 CP-2.

c. The project and the appurtenant facilities described in the Section A “Physical features” shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in the Section A “Physical features” are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. The docket holder shall register

with and report to the PADEP all surface and ground water sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).

b. The intake and operational records shall be available at all times for inspection by the DRBC.

c. The intake shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

d. During any month, the combined withdrawal from the surface water intake source shall not exceed 10.42 mgd (323 mgm). No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MGM)
Delaware River 774	11,111	323

e. The docket holder shall pay for surface water use in excess 234.2 mgm in accordance with *Administrative Manual – Part III Basin Regulations – Water Supply Charges*.

f. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported annually by March 31, to the PADEP. Withdrawal records shall be available at any time to the Commission if requested by the Executive Director.

g. Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

h. In accordance with DRBC Resolutions No. 87-6 (Revised) and No. 2009-1, the docket holder shall continue to implement to the satisfaction of the PADEP, the systematic program to monitor and control leakage within the water supply system. The program shall at a minimum include: periodic surveys to monitor leakage, enumerate non-revenue water and determine the current status of system infrastructure; recommendations to monitor and control leakage; and a schedule for the implementation of such recommendations. The docket holder shall proceed expeditiously to correct leakages and unnecessary usage identified by the program.

i. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the Water Code, the docket holder shall implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control

Committee (WLCC) Water Audit Software) and corresponding guidance. Water audits shall be submitted annually to the Commission by March 31.

j. The docket holder shall implement to the satisfaction of the PADEP, the continuous program to encourage water conservation in all types of use within the facilities served by this docket approval. The docket holder will report to the PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

k. No water service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

l. The docket holder shall continue to implement its Water Conservation Plan as approved by PADEP, and shall report to the PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

m. The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

n. No new water service connections shall be made to premises connected to sewerage systems which are not in compliance with all applicable effluent limits contained in State permits and the *Water Quality Regulations* of the Commission.

o. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

p. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

q. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

r. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend,

alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

s. If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the permit holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the permit holder shall provide written notice to all potentially affected water users of the permit holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the permit holder's project withdrawal shall be repaired, replaced or mitigated at the permit holder's expense.** The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the permit holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement or mitigation.

t. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

u. Prior to allowing connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a Non-Point Source Pollution Control Plan (NPSPCP) in accordance with Section 3.10.3.A.2.e, or receive written confirmation from the Executive Director of the DRBC that the new service area is in compliance with a DRBC approved NPSPCP.

v. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the *Rules of Practice and Procedure*. In accordance with Section 15.1(p) of the *Delaware River Basin Compact*, cases and controversies arising under the Compact are reviewable in the United States district courts.

BY THE COMMISSION

APPROVAL DATE: September 14, 2016

EXPIRATION DATE: September 14, 2026